

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA, et al.,
Plaintiffs,
vs.

BOARD OF HAMILTON COUNTY
COMMISSIONERS, et al.,
Defendants.

Case No. 1:02-cv-107
Barrett, J.
Litkovitz, M.J.

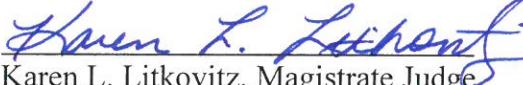
**ORDER RE: REQUEST
FOR REVIEW BY
BRYAN YOUNG**

Claimant Bryan Young filed a Request for Review of the denial of a Sewer Backup (“SBU”) claim. (Doc. 1606). A hearing on Mr. Young’s Request for Review was held on May 21, 2019. At the request of the Court, both parties submitted additional information on whether the Delmar Avenue street project shown in Plaintiff’s Exhibit 9 involved the Metropolitan Sewer District of Greater Cincinnati (“MSD”) or the “8-inch sanitary-only sewer” purportedly serving the properties on Delmar Avenue. (Doc. 1682, Ex. 9). Mr. Young and MSD both indicate that they spoke to Thomas Paul, the Village of St. Bernard’s Service Director regarding this project. Mr. Young represents that he was advised the project was “to separate the Combined Sewer System into separate Storm and Sanitary Sewer Systems.” (Doc. 1708 at 3). MSD represents that it was advised the “street rehabilitation project on Delmar Avenue did not involve MSD or the 8-inch sanitary-only sewer. The project included work on the St. Bernard storm sewer, which work was performed by The Village of St. Bernard in connection with Greater Cincinnati Water Works’ Stormwater Management Utility.” (Doc. 1702 at 3). Mr. Young presented evidence at the hearing that his property, which is located in the village of St. Bernard, is serviced by a combined sewer system. (Doc. 1682, Ex. 1-MSD Fact Sheet, Ex. 2-MSD Press Release). MSD Assistant Superintendent and SBU Response Program Manager Tom Fronk

testified that the MSD Fact Sheet and Press Release, both of which represent that St. Bernard is “on a combined sewer system,” are “generic” and intended to provide the public with only general information. He testified that it is not evidence that Mr. Young’s property is in fact serviced by a combined sewer system.

The conflicting evidence presented at the hearing and Mr. Paul’s purported representations call into question the type of sewer or sewers serving Mr. Young’s residence. Neither Mr. Young nor MSD has submitted any documentary evidence confirming the types of sewers serving Mr. Young’s property. As this information is essential to the Court’s determination of Mr. Young’s SBU Request for Review, the parties are **ORDERED** to submit within **30 days** documentary evidence verifying the type(s) of sewer(s) serving Mr. Young’s property.

IT IS SO ORDERED.



Karen L. Litkovitz, Magistrate Judge
United States District Court